

# **COMMUNITY CARE LICENSING DIVISION**

*"Promoting Healthy, Safe and  
Supportive Community Care"*

## **TECHNICAL SUPPORT PROGRAM**

### **Self-Assessment Guide**

## **WAIVERS, EXCEPTIONS AND EXEMPTIONS**



**CDSS**

CALIFORNIA  
DEPARTMENT OF  
SOCIAL SERVICES

## **TECHNICAL SUPPORT PROGRAM**

### **WAIVERS, EXCEPTIONS AND EXEMPTIONS**

Facilities are required to maintain compliance with regulations at all times. In some instances, licensees may wish to use alternative methods which, while not in strict compliance with regulatory requirements, meet the intent of the regulations and allow for more effective operation of the facility. In these cases, Community Care Licensing (CCL) may issue waivers, exceptions or exemptions to regulations.

#### **DEFINITIONS**

**WAIVERS** - These are requests to waive a particular regulation on a facility-wide basis. They are not tied to a specific individual and may remain in effect regardless of changes in clients and staff.

EXAMPLE - Regulations do not allow facilities to prevent clients from leaving the premises or to lock clients in any room, building, etc. This does not prevent facilities from establishing house rules regarding locking the doors at night for the protection of residents, nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders. If a facility wants to bar the windows for protection, a waiver to the regulation would be required.

**EXCEPTIONS** - These are requests to make an exception to the regulations for a specific staff or client based upon the unique needs or circumstances of that individual. The regulation in question will still apply to all other residents and staff in the facility.

EXAMPLE - Adult Residential Facilities are licensed for clients from the ages of 18 through 59. If the facility wished to retain a client when he/she turned 60, an exception would be needed.

**EXEMPTIONS** - These are requests to allow an employee with a criminal conviction to work in a facility. An exemption may be granted for a particular employee performing a specific job function. Some convictions are prohibited from exemption by law.

EXAMPLE – Statute prohibits licensees, employees, or adults residing in facilities from having a criminal history. If a facility wishes to hire an employee who has been convicted of a crime (e.g. shoplifting, welfare fraud, driving under the influence), an exemption from the statute would be needed.

## MAKING REQUESTS FOR WAIVERS/EXCEPTIONS

Waivers and exceptions must be approved before the facility implements the practice described in the request. A facility that operates in violation of any regulation without an approved waiver or exception is subject to citation.

Requests for waivers and exceptions must be made in writing to the Regional Office (RO) responsible for licensing the facility. They must also be signed by the licensee or his/her designated representative.

The information required for the Licensing Program Analyst (LPA) to evaluate the request will vary depending on the nature of the waiver or exception. At a minimum, the request will need to provide information to demonstrate how the proposed alternative will meet the intent of the regulation. It is best to contact the LPA prior to submitting the request to determine exactly what information will need to be submitted.

## MAKING REQUESTS FOR EXEMPTIONS

The Caregiver Background Check Bureau (CBCB) handles requests for exemptions. The CBCB will notify the licensee when an exemption is required and advise him/her as to what information will be needed to evaluate the request. They will also advise the licensee as to whether or not the employee may continue to work in the facility pending evaluation of the exemption request.

NOTE - If the licensee learns that an employee has a conviction prior to being contacted by CBCB, he/she should contact the facility's LPA for direction on how to proceed.

## MISCELLANEOUS

- ◆ Waivers and exceptions are issued for a specific client, staff or facility. They are not transferable even between facilities owned by the same licensee.
- ◆ Exemptions are granted for a specific staff member. Exemptions may be transferred between facilities by submitting a Criminal Record Exemption Transfer Request (LIC 9188) to the CBCB. For more information on the criminal background exemption process, visit the CCL website at [www.ccl.ca.gov/](http://www.ccl.ca.gov/)
- ◆ Waivers, exceptions and exemptions granted by the department are subject to review and may be revoked if conditions change and they no longer provide adequate protections for clients, or if conditions placed on the approval are not being met.
- ◆ Copies of the exceptions, waivers and exemptions are to be retained in the appropriate facility files.